



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



**LETTER OF DEFICIENCY
WET 2002-47**

December 5, 2002

Joseph Manning
c/o American Homes
Box 748
West Swanzey, NH 03469

RE: DES Wetlands File #2001-01056 (forestry), Swanzey

Dear Mr. Manning:

On November 21, 2002, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Swanzey Tax Map 49 as Lot 1 (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A and NH Code of Admin. Rules Wt 100-700.

Review of the DES files and field inspection of the property found the following:

1. Pursuant to RSA 482-A, the Department of Environmental Services ("DES") regulates dredging, filling, and construction in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11, I, the Commissioner of DES has adopted Wt 100 *et seq.* to implement this program.
2. Pursuant to RSA 482-A:13 and RSA 482-A:14, III, the Commissioner is authorized to impose fines of up to \$2,000 per violation for violations of the statute, of rules adopted pursuant to the statute, or of any order or permit issued under the statute. Pursuant to RSA 482-A:11, I, the Commissioner has adopted Env-C 614 to establish the schedule of fines for such violations.
3. Joseph Manning is the owner of land located on Eaton Rd, Swanzey NH more particularly described on the Swanzey tax maps as Map 49, lot 01 ("the Property").
4. On June 8, 2001, DES received a "Notification of Forest Management Activities Having a Minimum Wetlands Impact" ("Wetlands Notice") from Joseph Manning.
5. On January 25, 2002, DES received an "Application for Subdivision Approval" to subdivide the lot into 5 single family house lots from Brian Bergeron for Joseph Manning.
6. Question #2 of the Wetlands Notice asks, "Is the land being cleared in preparation for subdivision, development, or other conversion to non-forestry use?" and the applicant checked

"no"

7. Wt 303.04 set the criteria of forestry products that qualify for the minimum impact Wetlands Notice and includes the following requirement: "(a) Access shall not be used for subdivision, development or other conversion to non forestry uses,"

8. On November 21, 2002, DES inspected the property and found dredging in the form of machinery ruts at flagged locations K2, K3, K4, K 43-44 (20' x 300' of wetlands impacts), and E 21 (20' x 20').

In response, you are requested to take the following actions:

1. Retain a certified wetland scientist to delineate the wetlands on the Property. Submit letter of retention by January 15, 2003.

2. Submit a wetlands delineation and a plan for restoring the impacted wetlands and surface waters on the Property by February 15, 2003.

3. Submit a complete Standard Dredge and Fill application through the Town of Swanzey proposing access for subdivision approval to Wetlands Bureau, Permitting Section by February 15, 2003.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Mary Ann Tilton, Senior Enforcement Officer
Wetlands Bureau
Department of Environmental Services
6 Hazen Drive
PO Box 95
Concord, NH 03302-0095

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact me at (603) 271-2147.

Sincerely,


COPY

Mary Ann Tilton
Senior Enforcement Officer
Wetlands Bureau

CERTIFIED MAIL 70001670000005855345

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen Rule, Administrator, DES Legal Unit ✓
Swanzy Conservation Commission
Swanzy Board of Selectmen
David Killoy, USACOE